

REMARKS

Claims 1-6 and 21-22 are cancelled. Claims 7-11 and 17-20 were previously withdrawn. In the Final Office Action mailed on 14 December 2005 ("Final Office Action"), claims 24 and 28-32 were withdrawn. Claims 33-34 are new. Claims 12-16, 23, 25-27, and 33-34 remain in the case for consideration. Reconsideration and allowance of the claims under consideration is requested in light of the following remarks.

Improper Restriction Requirement

In the Final Office Action, it is stated that "[c]laims 24 and 28-32 [do] not belong to the elected embodiment of FIG. 5B." Since the applicant received an action on the merits for the originally presented invention, this invention was considered to be constructively elected and claims 24 and 28-32 were withdrawn.

The applicant believes the withdrawal of claims 24 and 28-32 to be improper, for the following reasons.

Claim 24 depends from claim 23, which still remains in the application and is directed at the embodiment of FIG. 5B. In addition to the first, second, and third upper interconnection lines recited in claim 23, claim 24 recites a fourth upper interconnection line. FIG. 5B illustrates and the specification explicitly states that "[r]eferring to FIG. 5B, in addition to the first to third upper opaque patterns shown in FIG. 5A, the second photo mask also includes *a fourth upper opaque pattern 450c*" (page 10, lines 7-8; emphasis added). Thus, contrary to allegations, claim 24 is specifically directed at the embodiment of FIG. 5B.

Regarding claims 28-32, the applicant specifically pointed out that the claims were directed at FIG. 5B at the time that they were introduced, by stating that "[c]laims 28-32 are new, and share many of the same features as original claims 12-16, respectively." In addition, claim 28 recites, *inter alia*, that the first lower interconnection line and the first upper interconnection line are aligned such that a first vertical plane running lengthwise to the first lower and upper interconnection line bisects both of them. This feature is fully supported by the original application at, e.g., FIG. 5B." Thus, contrary to allegations, claims 28-32 are specifically directed at the embodiment of FIG. 5B.

Accordingly, claims 24 and 28-32 were properly presented for consideration in response to a non-final office action, and their subsequent withdrawal by the Examiner was improper. The applicant therefore requests that claims 24 and 28-32 be considered in light of the prior art of record.

If the withdrawal of claims 24 and 28-32 is maintained, please call the undersigned immediately at (503) 222-3613 so that the applicant may petition the Commissioner to review the requirement with minimum delay.

In the Claims

The amendment of claim 12 is fully supported by the original application at, e.g., FIG. 5B and associated description.

New claim 33 depends from claim 12 and is fully supported by the original application at, e.g., claim 12, FIG. 5B and associated description.

The amendment of claim 23 is fully supported by the original application at, e.g., FIG. 5B.

New claim 34 depends from claim 23 and is fully supported by the original application at, e.g., FIG. 5B.

Claim Rejections – 35 U.S.C. § 102

Claims 12-16, 23 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 20010017418 to Noguchi et al. ("Noguchi"). The applicant disagrees.

Contrary to claim 12, Noguchi's alleged upper interconnection lines 1 are not aligned in the same direction as Noguchi's alleged lower interconnection lines 4 (FIGs. 4 and 5). For at least this reason, Noguchi fails to anticipate claim 12 because it does not show the identical invention in as complete detail as contained in the claim. MPEP 2131.

Noguchi fails to anticipate claims 13-16 and 33 for at least the same reason that it fails to anticipate claim 12. MPEP 2131.

Contrary to claim 23, Noguchi's alleged upper interconnection lines 1 are not aligned in the same direction as Noguchi's alleged lower interconnection lines 4 (FIGs. 4 and 5). For at least this reason, Noguchi fails to anticipate claim 23 because it does not show the identical invention in as complete detail as contained in the claim. MPEP 2131.

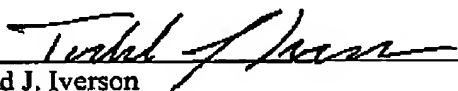
Noguchi fails to anticipate claims 25-27 and 34 for at least the same reason it fails to anticipate claim 23. MPEP 2131.

Conclusion

For the reasons presented above, reconsideration and allowance of the claims under consideration is requested. Please call the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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